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Item 18 of the provisional agenda*

HUMAN RIGHTS QUESTIONS

Allegations regarding infringements of trade union rights in South Africa

Note by the Secretary-General

1. At its substantive session of 1992, the Economic and Social Council considered the report of the Fact-finding and Conciliation Commission on Freedom of Association concerning South Africa (see E/1992/70) referred to it by the International Labour Office (ILO), pursuant to Council resolution 1991/37 of 31 May 1991, and noted with satisfaction the findings, conclusions and recommendations contained therein, making a specific reference to paragraph 748, clauses 13, 14 and 15 of the report.

2. In this connection, in its resolution 1992/12 of 20 July 1992, the Economic and Social Council requested the Secretary-General to invite the Government of South Africa to report, no later than 31 December 1992, on the measures it had taken to give effect to the recommendations contained in the said report, and thereafter at yearly intervals until the Economic and Social Council was satisfied that the said recommendations had been implemented. The Council also requested the Secretary-General to refer the reports of the Government of South Africa on this matter to the ILO, with the request that the latter transmit to the Council its advice and comments stemming from examination of the said reports. The Council took note of the request of the Government of South Africa that the ILO provide technical assistance and advice to the Government, and to labour and management organizations of South Africa, in respect of the recasting of that country's labour laws, and it invited the ILO to comply with this request and to inform the Council of actions taken in this regard in the context of an annual report to the United Nations.

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* E/1993/100.

3. Pursuant to the request of the Economic and Social Council, the Secretary-General sent a letter dated 22 October 1992 to the Permanent Representative of South Africa to the United Nations, drawing his attention to Council resolution 1992/12 and, inter alia, inviting the Government of South Africa to report no later than the end of 1992 on the measures it had taken on the matter. The Secretary-General informed the South African authorities that he would refer the information provided by them to the ILO, as specified in the resolution, and he pointed out that the advice and comments of the ILO stemming from an examination of the said reports and the reports themselves would be transmitted to the Economic and Social Council at its substantive session of 1993.

4. By a letter dated 5 February 1993, the Chargé d'affaires a.i. of the South African Permanent Mission in Geneva transmitted the "Memorandum regarding developments on labour issues also referred to in the recommendations of the Fact-finding and Conciliation Commission" to the Director-General of the International Labour Organisation. In response, the ILO drew the attention of the South African authorities to the fact that Economic and Social Council had specifically requested their Government to submit its report to the Secretary-General of the United Nations, who would then transmit that document to the ILO. Only after its transmittal by the Secretary-General could the report be examined by the ILO.

5. The Secretariat received a reply dated 11 February 1993 from the Permanent Representative of South Africa to the United Nations, in which the Secretary-General was advised that a tripartite working group of Government, organized labour and employers had been formed in South Africa and would, inter alia, be studying the recommendations contained in the report of the ILO Fact-finding and Conciliation Commission. Where necessary, legislation would be drafted and administrative action taken which would affect some of the recommendations of the Commission. The Permanent Representative pointed out that the Government of South Africa had noted the interest of the Economic and Social Council but that since a direct channel of communication between the Government and the ILO had been established in respect of the Fact-finding and Conciliation Commission, his Government was of the opinion that it should continue to use this channel in its further response to the report.

6. On the basis of the above communication, the Secretary-General transmitted a second letter to the Permanent Representative of South Africa to the United Nations, dated 24 March 1993, in which he reiterated the request of the Economic and Social Council, namely that the Secretary-General refer the reports of the Government of South Africa on the matter to the ILO, which in turn should transmit to the Council its advice and comments stemming from an examination of the said reports. In the letter, it was underscored that, in order to meet the requirements of Council resolution 1992/12, the Government of South Africa should send its response directly to the Secretary-General, who would then make it available to the Director-General of the International Labour Organisation. The Permanent Representative was asked to advise his Government of the need to follow the procedures outlined in Council resolution 1992/12.